

# Notice of Allowability

Application No.

09/960,662

Examiner

Tatyana Zalukaeva

Applicant(s)

GORE ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/02/2004.
2. ☒ The allowed claim(s) is/are 1-6, 8, 9 and 33-35.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All ☐ Some\* ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

**/EXAMINER'S COMMENT/REASONS FOR ALLOWANCE**

**Examiner's Comment**

1. The Declaration under 37 CFR 1.132 filed September 22, 2003 is sufficient to overcome the rejection of claims 1-6, 8, 9, 33-35 based upon U.S. Patent 6,420,441 to Allen et al.

Applicants submitted a declaration of Dr. Michael K. Gallagher under 37 CFR 1.132. Dr. Gallagher is a co-inventor of both the U.S.'441 patent and the present Application. In his declaration, Dr. Gallagher stated that the present invention was invented by himself, Robert M. Gore and Yujian You. The other co-inventors of the U.S.'441 patent (Drs. Allen, Annan, Blankenship and Lamola) contributed to the U.S.'441 patent in areas ***other than solution polymerization***, such as in the areas of compositions suitable for porous materials, methods of preparing porous materials and the general concept of compatibilizing pore forming materials with a dielectric matrix. Thus, the ***polymerization process*** disclosed in the U.S.'441 patent ***was not invented*** by Craig S. Allen, Nikoi Annan, Robert M. Blankenship and Angelo A. Lamola. Accordingly, U.S.' 441 patent ***is disqualified as prior art*** under 35 USC 102(e) as it is not an invention ***"by another"***. See MPEP j 2136. The Declaration is submitted pursuant to 37 CFR paragraph 1.132.

**Allowable Claims**

2. **Claims 1-6, 8, 9, 33-35** are allowed over the prior art of record.

### Reasons for Allowance

3. The following is an examiner's statement of reasons for allowance: After withdrawal of Allen's reference, the closest prior art of record are U.S. 5,436,284 to Honda and U.S. 4,533,681 to Cassata.

Honda discloses the process, wherein solvent was placed in a flask equipped with a stirrer and heated to a predetermined reaction temperature, following which a liquid mixture consisting of monomer A, monomer B, other monomers, and a polymerization catalyst was introduced dropwise into the flask with stirring over a period of 3 hours. After completion of the addition, the contents were held at that temperature for 30 minutes. A mixture of a solvent and a polymerization catalyst b was then added dropwise over a period of 20 minutes, and the resulting mixture was stirred at that temperature for 2 hours to complete the polymerization reaction.

Honda fails to disclose or suggest:

a) the presence of any crosslinking agent, needless to say about multiethylenically unsaturated crosslinking agent;

b) Honda's process does not prepare the crosslinked particles, and therefore, does not meet the limitations of the independent claims 1 and 33.

Cassata reference was previously discussed for its positive recitations. However, the cross-linking reactions of Cassata do not employ vinyl polymerization. See column 8, lines 57-67, which describe the various cross-linking reactions. **None of** the cross-linking reactions of Cassata involve reactions between ethylenically or acetylenically unsaturated monomers and multi-ethylenically unsaturated cross-linking

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agents. In contrast to Cassatta, Applicants' method requires the polymerization of one or more ethylenically or acetylenically ***unsaturated monomers and one or more multi-ethylenically unsaturated cross-linking agents.***

Such a reaction is not taught by Cassatta. The claims are further distinguished from the Cassatta patent as Cassatta et al. do not disclose Applicants' claimed particle sizes. The smallest particle size of Cassatta is 1970 Å, which is 197 nm, and this is almost twice as large as Applicants claimed particles.

No other prior art that anticipates or suggests fairly the instant claims has been located as of the date of this office action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tatyana Zalukaeva whose telephone number is (571) 272-1115. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tatyana Zalukaeva  
Primary Examiner  
Art Unit 1713

February 14, 2005

A handwritten signature in black ink, appearing to read 'Zalukaeva', with a long, sweeping horizontal line extending to the right.